
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
United Power)	File No. EB-FIELDWR-12-00002518
)	
Licensee of Radio Station WPSS323)	
Brighton, Colorado)	NOV No. V201232800032

NOTICE OF VIOLATION

Released: [June 14, 2012](#)

By the District Director, Denver Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (“Notice”) issued pursuant to Section 1.89 of the Commission’s Rules,¹ to United Power, licensee of radio station WPSS323, Brighton, CO.
2. On May 22, 2012, in response to a radio interference complaint, an agent from the Enforcement Bureau’s Denver Office monitored the frequency 451.850 MHz, and used direction finding and other investigative techniques to identify transmissions from station WPSS323, on Mt. Thorodin in Coal Creek, CO. The agent observed the following violations:
 - a. 47 C.F.R. § Section 1.903(a): “Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part.” At the time of the investigation, the FCC agent used direction finding equipment to locate the source of the suspected interference to the digital signal emanating from the trunked repeater control channel owned and operated by United Power atop Mt. Thorodin, Coal Creek, CO. According to the license for WPSS323, United Power is authorized to operate with analog emissions under the designator of 11K2F3E. The agent found WPSS323 transmitting an unauthorized digital emission.
 - b. 47 C.F.R. § 90.403(c): “Except for stations that have been granted exclusive channels under this part and that are classified as commercial mobile radio service providers pursuant to part 20 of this chapter, each licensee must restrict all transmissions to the minimum practical transmission time and

¹ 47 C.F.R. § 1.89.

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must employ an efficient operating procedure designed to maximize the utilization of the spectrum.” WPSS323 is authorized to operate as a trunked industrial/business radio service. The license indicates the 451.850 MHz channel is a FB6 station class and thus is not granted exclusive use. At the time of the investigation, the agent observed WPSS323 transmitting a digitally modulated signal with a continuous duty cycle on 451.850 MHz. for long periods.

- c. 47 C.F.R. § 90.403(e): Licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference.” At the time of the investigation, the agent was informed by the complainant that the signal observed on 451.850 MHz was continuous and causing interference to their reception on 451.850 MHz which is a channel shared with other licensees. The license indicates the 451.850 MHz channel is a FB6 station class and thus is not granted exclusive use.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,² and Section 1.89 of the Commission's Rules, United Power must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response must fully explain each violation, must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and should include a time line for completion of pending corrective action(s). The response must be complete in itself and signed by a principal or officer of United Power. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Denver District Office
215 South Wadsworth Blvd., Suite 303
Lakewood, CO 80226

4. This Notice shall be sent to United Power at its address of record.

² 47 U.S.C. § 308(b).

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5. The Privacy Act of 1974³ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance. Any false statement made knowingly and willfully in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁴

FEDERAL COMMUNICATIONS COMMISSION

Nikki P. Shears
District Director
Denver District Office
Western Region
Enforcement Bureau

³ P.L. 93-579, 5 U.S.C. § 552a(e)(3).

⁴ 18 U.S.C. § 1001 *et seq.*